IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Bail Appl..No. 7084 of 2007()

PETITIONER/ACCUSED

A.V.SUNIL KUMAR,
ARUMAKATTUKUDI HOUSE, MATTOOR, KALADY.

BY ADV. SRI.SAIBY JOSE KIDANGOOR
SRI.BENNY ANTONY PAREL

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE,
KALADY POLICE STATION.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON 07/12/2007 PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7084 OF 2007 A

Dated this the 7th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations in a crime registered for offences punishable, inter alia, under Sections 468 and 471 IPC. The petitioner is a Peon in a Nationalized Bank. The crux of the allegations against the petitioner is that the petitioner committed acts of misappropriation, forgery, etc. in respect of cheques received in the bank from other banks. The petitioner had allegedly taken such cheques to the other banks. He had forged the signature of the Assistant Manager. He had collected amounts from such banks and had not brought such amounts into the accounts of his bank. This is the allegation against the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel for the petitioner further points out that in the normal course such amounts will not be handed over to a Peon like him from the banks concerned. In these circumstances, the petitioner does

not deserve to endure the trauma of arrest and detention. He may be granted anticipatory bail, it is prayed.

3. The public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner has been working as a Peon in that bank for a period of 16 years and in such capacity he knew the procedures. He had earned confidence of the other members of the staff. The available indications clearly show that the petitioner was responsible for committing the offences alleged in the instant case. Another bank reported to the petitioner's bank that the amounts have not been collected and brought to the account concerned. In any view of the matter, this is not a fit case where the invocation of the jurisdiction under Section 438 Cr.P.C. is necessary or warranted, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify or warrant the invocation of the extraordinary equitable

discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

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